

Remarks

After amendment, claims 40-56 and 66 remain pending in the present application and amended pursuant to the Examiner's indication of allowable subject matter. Claims 57-65 are cancelled and claims 1-39 having been cancelled previously. Claim 66 has been amended to reflect allowable subject matter. Support for the amendment to the claims can be found throughout the originally filed application and claims. All subject matter in the newly presented claims can be found in the originally filed and previously pending claims. No new matter has been added by way of this amendment.

Applicants note that any subject matter which is cancelled herein, including any subject matter canceled from the original claims is made *without prejudice* in order to give Applicant a chance to consider filing any one or more divisional/continuation applications to seek allowance of that subject matter. The present amendments have been made to expedite allowance of the instant application and in particular, to address the enablement issue associated with cancers that are other than solid tumors. The presently pending claims are now directed to the use of the compounds as claimed in treating solid tumors and cancers as otherwise set forth in the claims. The treatment of the claimed tumors/cancers as set forth in the claims is consistent with the activity of the claimed compounds as anti-angiogenesis agents.

Rejections

The Examiner has removed all previous rejections and issued a new rejection under 35 U.S.C. §112, first paragraph for the reasons which are stated in the Examiner's office action of June 11, 2009. The Examiner indicates that the claims are otherwise free from prior art. Applicant shall address the Examiner's rejection in the sections which follow.

The §112, First Paragraph Rejection

The Examiner has rejected/objection to previously pending claims 40-66 under 35 U.S.C. §112, first paragraph as being non-enabled for non-solid tumors and cancers as stated in the office action on pages 5-9. In particular, the Examiner indicates that the previously pending claims were directed to a number of cancers which included a number which are not solid tumors and which are non-enabled. In response, Applicants have amended the presently pending claims and limited the treated tumors and cancers to solid tumors.

In support of the fact that each of the claimed tumors/cancer is a solid tumor and meets with the Examiner's acknowledgement of enablement, a definition of a solid tumor from the National Cancer Institute is enclosed. Solid tumors include carcinomas, sarcomas and lymphomas. The definition can also be found at the following website of the National Cancer Institute:

http://www.cancer.gov/Templates/db_alpha.aspx?CdrID=45301

Given that each of the claimed tumors/cancers is a solid tumor, there is an expectation that the claimed compounds, which exhibit potent anti-angiogenesis activity, are enabled with respect to the treatment of the enumerated tumors/cancers. Applicants note that subject matter has been deleted from the previously pending claims in order to advance the allowance of the instant application consistent with the Examiner's recognition of allowable subject matter. Notwithstanding that fact, Applicants believe that the presently claimed methods are active and effective against all of the originally claimed tumors/cancer. It is anticipated that Applicants will file one or more divisional applications directed to canceled subject matter in order to present data which supports the enablement of the canceled subject matter.

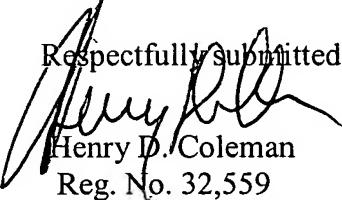
It is respectfully submitted that the presently claimed invention meets the requirements of 35 U.S.C. §112, first paragraph. No other rejections of the previously pending claims were made by the Examiner.

For all of the reasons which are set forth hereinabove, Applicants respectfully submit that the application is in condition for allowance and early action resulting in allowance of the instant application is earnestly solicited.

No fee is due for the presentation of this amendment. A petition for an extension of time is enclosed as is a notice of appeal. The appropriate fee is also enclosed. Please charge any fee due or credit any overpayment previously made to Deposit Account No. 04-0838. A printout of the definition of solid tumors from the website of the National Institute of Cancer is also enclosed.

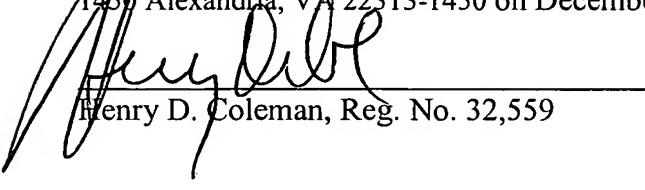
Dated: December 11, 2009

Respectfully submitted,


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Certificate of Mailing

I hereby certify that this correspondence is being sent by First Class Mail in an envelope addressed to Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450 on December 11, 2009.


Henry D. Coleman, Reg. No. 32,559



Dictionary of Cancer Terms



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solid tumor

An abnormal mass of tissue that usually does not contain cysts or liquid areas. Solid tumors may be benign (not cancer), or malignant (cancer). Different types of solid tumors are named for the type of cells that form them. Examples of solid tumors are sarcomas, carcinomas, and lymphomas. Leukemias (cancers of the blood) generally do not form solid tumors.

Questions about cancer?

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